

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5813 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PIYUSHKANT B DESAI

Versus

GIDC

Appearance:

MR MK VAKHARIA for Petitioner

MR YH VYAS for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/02/98

ORAL JUDGEMENT

1. The petitioner, an Officer of the Gujarat Industrial Development Corporation, Ahmedabad, filed this special civil application and challenges the legality of the order dated 28th October, 1986, the order of the appellate authority under which the order of the Managing Director of the Corporation dated 5-5-1986 withholding the promotion of the petitioner for a period of two years, has been confirmed.

2. Only contention raised by the learned counsel for the petitioner is that in the appellate committee, Shri L.M. Sud, Managing Director who passed the original order was one of the members, and as such, the order of the appellate authority vitiates.

3. On the other hand, the learned counsel for the respondent contended that this contention is wholly misconceived as Shri Sud was not the person, who participated in the deliberation of the appellate committee.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

5. The respondent has come up with the case that the appeal of the petitioner was heard by a committee of three persons who were the Directors of the Corporation, namely, Shri V.R.S. Cowlage, Shri B.K. Patel and Shri K.L. Haria. So, Mr. L.M. Sud, who was the person who passed the original order of giving penalty to the petitioner was not the member of the appellate committee. The averments made in the reply to the special civil application have not been controverted by the petitioner by filing rejoinder, and as such, the same stand uncontroverted. In view of the uncontroverted fact that the appellate committee was of the three members in which Shri Sud was not the member, this contention is wholly misconceived and cannot be accepted.

6. In the result, this special civil application fails and the same is dismissed. Rule discharged.

zgs/-